

L. Spruell
7-26-95

PATENT

Docket No.: 45751USA8B



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

9 / Request
Recons.

In re Application of:

JOSEPH P. KRONZER et al.

Serial No.: 08/154,989

Filed: November 18, 1993

For: FIBROUS FILTRATION
FACE MASK

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) Group Art Unit: 3307
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) Examiner: Aaron J. Lewis
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GROUP 330

RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The Examiner is thanked for the courteous interview of May 9, 1995. To recapitulate the remarks made at the interview and in full response to the Office Action mailed April 5, 1995, applicants provide the following.

As indicated at the interview, applicants submit that U.S. Patent 4,807,619 to Dyrud et al. (Dyrud) and U.S. Patent 4,363,682 to Thiebeault would not have rendered the invention obvious to a person of ordinary skill because Thiebeault only discloses reducing surface fuzz in a filtration layer. Thiebeault's filtration layer is not molded into a cup-shaped configuration as claimed by applicants, and it does not include bicomponent fibers. As shown in Fig. 1 of Thiebeault, the filtration layer 1 is supported by molded shell 4, often referred to in the art as a shaping layer. The teachings in Dyrud that discuss thermally-bonded bicomponent fibers pertain to the composition of its shaping layers 15 and 17 and not a filtration layer. Thus, there is nothing in Thiebeault or Dyrud that suggests how to maintain low surface fuzz values in a molded shaping layer. Nor do the references disclose any motivation for reducing surface fuzz in a shaping layer. Thiebeault reduces surface fuzz in the filtration layer to eliminate the need for a porous surface covering (see column 2, lines 47-52). Accordingly, Dyrud and Thiebeault would not have rendered applicants' invention obvious to a person of ordinary skill within the meaning of 35 U.S.C. § 103. Favorable reconsideration of the Section 103 rejection is therefore requested.

In regard to the Section 112 first and second paragraph rejections, applicants submit the following.

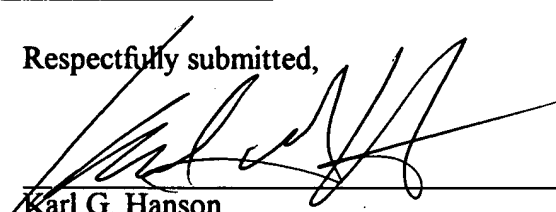
As the Examiner is aware, an enablement rejection cannot be sustained when no cognizant reasoning has been put forth explaining why a person skilled in the art cannot make and use the invention. The burden lies with the United States Patent and Trademark Office to provide such reasoning when making an enablement rejection. At the present, the record is void on why a person of ordinary skill could not make or use applicants' invention. And in any event, applicants' working examples clearly indicate otherwise. Accordingly, the first paragraph Section 112 rejection should be withdrawn.

In regard to the second paragraph rejection, applicants respectfully submit that their claims are not rendered indefinite by the term "surface fuzz value". Even if we assume that the term is not commonly understood by those of ordinary skill in the respirator art, applicants have adequately described a test procedure that is used to determine the surface fuzz value (see applicants' specification at page 10). Although patentable inventions cannot always be described in terms of exact measurements, applicants are entitled to use test procedures and other tools of language that may lack precision to some extent but when read in light of the specification still reasonably allow a person skilled in the art to ascertain the metes and bounds of the invention. Applicants submit that the term surface fuzz value is described in terms as precise as may be reasonably appropriate under the circumstances, and therefore applicants do not believe that their claims can be considered to be indefinite under the terms of 35 U.S.C. § 112, second paragraph. Although two testers may arrive at different results when examining surface fuzz, the values are averaged in accordance with the test procedure to arrive at the final surface fuzz value.

In light of the above, please further examine this application in a favorable manor.

Dated this 27th day of June, 1995.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231, on the date noted below.


Karl G. Hanson

Dated: 6/27/95